

Internal Revenue Service
District Director

Department of the Treasury

Post Office Box 1680, GPO
Brooklyn, NY 11202

Date: DEC 03 1993

Person to Contact:

Contact Telephone Number:

Refer Reply to:

EIN:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(7) of the Internal Revenue Code.

The evidence presented disclosed that the organization was incorporated [REDACTED] in [REDACTED].

The purpose for which the organization was formed is to foster and develop interest and sportsmanship in the showing and exhibition of sports automobiles, in general and [REDACTED] automobiles, in particular, including the sponsoring of competitions for the owners of said vehicles to reward excellence in their maintenance and performance.

The activities of the organization include sponsoring an annual carshow, annual autocross racing, and annual road rallies.

The organization's car show is open to members as well as non-members. Car shows are advertised on local radio and cable stations. Newsletters soliciting participation in the car show are also sent to other car clubs in [REDACTED]. Spectators are admitted to the shows at no charge, however participants in the car show must pay a fee.

The organization has sponsors that pay \$[REDACTED] per year. Sponsors are club members who hope to promote retail business in their establishments. The sponsors have no voting power and cannot hold the office of president or vice president. Sponsors are not required to apply for membership.

Section 501(c)(7) of the Code provides exemption to clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenue from members through the use of club facilities or in connection with club activities.

Public Law 94-568 amended IRC 501 to reflect a twofold change under IRC 501(c)(7). First, it makes it clear that a social club may receive some investment income without losing its exempt status. Second, it permits a higher level of income from nonmember use of club facilities than was previously allowed.

In addition, Public Law 94-568 defines gross receipts as those receipts from normal and usual activities of a club including charges, admissions, membership fees, dues, assessments, investment income, and normal recurring capital gains on investments, but excluding initiation fees and capital contributions. Public Law 94-568 also states that it is intended that social clubs should be permitted to receive up to 35 percent of their gross receipts, including investment income, from sources outside of their membership without losing their exempt status. Within this 35 percent amount, not more than 15 percent of the gross receipts should be derived from the use of the social club's facilities or services by the general public. Thus a social club may receive investment income up to the full 35 percent amount of gross receipts. If a club receives unusual amounts of income, such as from the sale of its clubhouse or similar facility, that income is not to be included in the 35 percent formula; that is, unusual income is not to be included in the gross receipts of the club.

Revenue Ruling 66-149, 1966-1 C.B. 146 holds that a social club is not exempt from Federal income tax as an organization described in section 501(c)(7) of the Code where it regularly derives a substantial part of its income from nonmember sources such as, for example, dividends and interest on investments which it owns. However, a club's right to exemption under section 501(c)(7) of the Code is not affected by the fact that for a relatively short period a substantial part of its income is derived from investment of the proceeds of the sale of its former clubhouse pending the acquisition of a new home for the club.

Revenue Ruling 65-63, 1965-1 C.B. 240 states that an organization which, in conducting sports car events for the pleasure and recreation of its members, permits the general public to attend such events for a fee on a recurring basis and solicits patronage by advertising does not qualify for exemption as a club organized exclusively for pleasure, recreation and other non profitable purposes under section 501(c)(7) of the Internal Revenue Code.

Section 1.501(c)(7)-1(b) of the regulations provides, in part, that a club which engages in business, such as making its social and recreational facilities available to the general public, is not organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, and is not exempt from Federal Income Tax under section 501(a) of the Code.

Revenue Ruling 69-219, 1969-1 C.B.153 states that a social club which regularly holds its golf course open to the general public, and charges establish green fees does not qualify for exemption under section 501(c)(7) of the Code.

Your organization is similar to the organizations described in Rev. Rul. 65-63, and Rev Rul. 69-219. Like these organizations, your activities are open to the general public and a fee is required. As a result, your organization has exceeded the 15% nonmember limit for the last three years.

In addition, your organization has sponsors that hope to promote retail business in their establishments. The sponsors do not share the same rights and privileges as the other members of your organization. The sponsors have a business motive rather than social and recreational interests.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(7) of the Code and propose to deny your request for exemption under that section.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time, this determination will become final.

A large black rectangular redaction box covering the signature area of the District Director.

District Director

Enclosure: Publication 892